IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

OP.No. 28512 of 2001(T)

PETITIONER:

P.C.ABRAHAM, TEXT BOOK DEPOT STORE KEEPER (RETD),
PUTHUSSERIL HOUSE, ONAKKOOR SOUTH,
PERIYAPPURAM P.O.,
VIA PAMPAKUDA, ERNAKULAM DISTRICT.

BY ADV. SRI.ABRAHAM VAKKANAL

RESPONDENTS:
----

1. **THE DIRECTOR OF PUBLIC INSTRUCTION,**
   THIRUVANANTHAPURAM.

2. **THE TEXT BOOK OFFICER, PADMAVILAS, FORT,**
   THIRUVANANTHAPURAM.

3. **THE DISTRICT EDUCATIONAL OFFICER,**
   ERNAKULAM.

4. **THE STATE OF KERALA,**
   REP.BY THE SECRETARY TO GOVERNMENT,
   GENERAL EDUCATION DEPT.,
   SECRETARIATE , TRIVANDRUM.

BY GOVERNMENT PLEADER SMT.PUSHPALATHA M.K. - R1 TO R4

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

OP. NO.28512/2001

ORDER ON CMP. NO.46352/2001 IN OP. NO.28512/2001

DISMISSED

25.10.2007 **SD/- THOTTATHIL B.RADHAKRISHNAN, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE JUDGMENT DT. 25.6.98 IN OP. NO.17540/93 OF THIS HONOURABLE COURT.

EXT.P2:- COPY OF THE PETITION DT. 3.9.99 FROM THE PETITIONER TO THE IST RESPONDENT.

EXT.P3:- COPY OF THE ORDER DT. 3.11.93 OF THE 2ND RESPONDENT.

EXT.P4:- COPY OF THE ORDER DT. 26.11.93 FROM THE 3RD RESPONDENT.

EXT.P5:- COPY OF THE EXPLANATION DT. 2.9.99 FROM THE PETITIONER TO THE 3RD RESPONDENT.

EXT.P6:- COPY OF THE NOTICE DT. 19.4.2001 RECEIVED ON 2.7.01 OF 3RD RESPONDENT.

EXT.P7:- COPY OF THE REPLY DT. 11.7.01 FROM THE PETITIONER TO THE 2ND RESPONDENT.

EXT.P8:- COPY OF THE LETTER NO.C3/5214/98/TBO DT. 8.8.01 OF THE 2ND RESPONDENT.

EXT.P9:- COPY OF THE NOTICE NO.V4/6642/01 DT. 3.8.01 OF THE IST RESPONDENT.

EXT.P10:- COPY OF THE SHOW CAUSE NOTICE NO.V4/6642/01/DPI DT. 6.9.01 OF THE IST RESPONDENT.

EXT.P11:- COPY OF THE REPLY DT. 15.9.01 FROM THE PETITIONER TO THE IST RESPONDENT

/TRUE COPY/

P.S. TO JUDGE

tss

THOTTATHIL B. RADHAKRISHNAN, J.

= =

O.P.No.28512 of 2001-T

= =

Dated this the 25th day of October, 2007.

JUDGMENT

1. Petitioner retired on 30-9-1993.

2. On 3-11-1993, the Text Book Officer, Thiruvananthapuram wrote to the Deputy Director of Education, Ernakulam stating that an amount of Rs.1,00,974.20 is to be realised from the petitioner and requested that appropriate action may be taken to realise those dues. Indisputably, there was no quantification of the amount to be recovered, after notice to the petitioner. Thereafter, the alleged liability was fixed only as per the impugned Ext.P8, on 8-8-2001. The petitioner was heard

only in 2000, that too, after Ext.P1 judgment of this Court.

3. The aforesaid facts would show that no liability was fixed against the petitioner in terms of Rule 3 Part III Kerala Service Rules. The liabilities cannot, therefore, be enforced.

4. For the aforesaid reasons, this writ petition is allowed quashing Exts.P8 and P10 and ordering release of the entire amounts due as DCRG and other retiral benefits. All withheld amounts will carry interest at the rate of 6% per annum from 1-10-2001 till date of payment. It is directed that all such amounts shall be released within an outer limit of four months from the date of receipt of a copy of this judgment.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-

THOTTATHIL B. RADHAKRISHNAN, J.

= = = = = = = = = = = = = = = = = = =

O.P.No.28512 of 2001-T

= = = = = = = = = = = = = = = = = = =

JUDGMENT

Dated: 25th October, 2007.